

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DARRIN LAPINE,

Plaintiff,

v.

Case Number 19-13165

Honorable David M. Lawson

Magistrate Judge Curtis Ivy, Jr.

RN DURAM, RN LONG, RN GRAHAM,
WELLPATH, and JANE and
JOHN DOES,

Defendants,

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**ORDER ADOPTING REPORT AND RECOMMENDATION
AND GRANTING MOTION FOR SUMMARY JUDGMENT**

Presently before the Court is the report issued on June 7, 2024 by Magistrate Judge Curtis Ivy, Jr. under 28 U.S.C. § 636(b) recommending that the Court grant the defendants Wellpath, Duram, Long, and Graham's motion for summary judgment. In his report, Judge Ivy explained that the plaintiff could not maintain an Eighth Amendment deliberate indifference claim against Duram, Long, or Graham because he failed to provide expert testimony to prove that his medical care was grossly inadequate and did not create a fact dispute that those defendants consciously disregarded a risk of serious harm. Judge Ivy also indicated that the plaintiff could not maintain a claim against Wellpath because he provided no evidence that it had an unconstitutional custom, policy, or practice.

The deadline for filing objections to the report has passed, and no objections have been filed. The parties' failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Fed'n of Teachers Loc. 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to

independently review the matter. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge.

Despite an extensive discovery period, LaPine never has identified any Jane or John Doe defendants, and no other defendants remain the case. A generous reading of the plaintiff's amended complaint suggests that any claims he may have against the unknown defendants are connected to his 2017 condition-of-confinement claim, which was severed from this action. *See* ECF No. 59. The plaintiff's amended complaint therefore will be dismissed in its entirety.

Accordingly, it is **ORDERED** that the report and recommendation (ECF No. 120) is **ADOPTED**.

It is further **ORDERED** that defendants Wellpath, Duram, Long, and Graham's motion for summary judgment (ECF No. 116) is **GRANTED**, and the plaintiff's amended complaint is **DISMISSED WITH PREJUDICE**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: June 25, 2024